IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

MFA.No. 373 of 2000

OPMV.2080/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ALAPPUZHA
.....

APPELLANT/PETITIONER:

K.A.SHEEBA, KALATHIL VEEDU, EZHUPUNNA
SOUTH P.O., NEENDAKARA, CHERTHALA,
NOW RESIDING AT THALATHIL HOUSE,
EZHUPUNNA P.O., CHERTHALA.

BY ADV. SRI.N.RAGHURAJ
SMT.K.AMMINIKUTTY

RESPONDENTS/RESPONDENTS:

1. THE MANAGING DIRECTOR, HOTEL RAIBAN, ALAPPUZHA.

2. C.ASOKAN MUPPATHILCHIRA VEEDU, ZILLA COURT WARD, ALAPPUZHA.

3. THE ORIENTAL INSURANCE CO.LTD., CULLEN ROAD, ALAPPUZHA.

R3 BY ADV. SRI.P.V.JYOTHI PRASAD
R1 BY ADV. SMT.JAYASREE MANOJ

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No. 373 of 2000

JUDGMENT

Koshy, J.

This appeal is filed for enhancement of the compensation awarded by the Motor Accidents Claims Tribunal, Alappuzha. The appellant, while she was travelling in a mini bus, met with an accident due to the negligence of the driver of the bus, insured by the third respondent Insurance Company, as found by the Tribunal. However, against the claim of Rs.1,75,000/- the Tribunal allowed only Rs.70,000/- with 12% interest from the date of application till date of realisation. The injuries, as could be seen from Exhibit A15 would certificate, are (1) Contusion and lacerated would 2 x 1 x 1 cm, 1 x 1 x 1 cm size on left medial aspect of thigh lower part -abrasion and contusion of same region, (2) Lacerated wound 2 x 1 x 1 cm size on right knee,

(3) Abrasion right foot right forehead region and (4) Contusion left lower part of chest.

2. It is deposed to by the claimant that that she had one minor operation and one major operation. She was admitted in the Medical College Hospital, Alappuzha as an inpatient for two months. It is her case that on ultrasound scanning it was revealed that there was splenic injury and left kidney laceration with perirenal collection and retroperitonial haematoma and her spleen was removed. No disability certificate was produced. The Tribunal awarded Rs.50,000/- for permanent disability and for loss of enjoyment in life. The Tribunal assessed the compensation without any basis. The accident occurred in 1994. It is stated that she was aged 21. Even though no evidence was adduced to that effect, the Tribunal fixed Rs.1,500/- as monthly income. In the absence of permanent disability certificate, considering the

nature of the accident, we are of the view that no further enhancement of compensation granted for disability is necessary. For all other heads also the Tribunal granted adequate amount of compensation, except for the loss of actual earnings, for which, Rs.3,000/- was granted. She was an inpatient for two months. She may not be able to do singing or perform her work for at least a period of four months due to two operations. Even if the monthly income is assessed at Rs.1,500/-, the actual loss of earnings will be Rs.6,000/-. Therefore, she ought to have been granted Rs.3,000/- more under that head. We see no other ground to enhance the compensation amount on any other head. Above Rs.3,000/- with 8% interest from the date of application till this date should be deposited by the third respondent Insurance Company within two months from the date of receipt of a copy of this judgment. On deposit of the

amount, the appellant is allowed to withdraw the same.

The appeal is allowed to the above extent.

(J.B.Koshy, Judge)

31st May, 2007

(K.P.Balachandran, Judge)

tkv

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No.373 of 2000

JUDGMENT

31st May, 2007